

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1546. INSTALLING, REPAIRING, RECONDITIONING IN GENERAL.

References: Sections 6006, 6010, 6011, 6012, 6015, Revenue and Taxation Code.
Tire Retreading and Recapping, see Regulation 1548.
Accommodation loans by repairers, see Regulation 1669.
Returns, Defects, and Replacements, see Regulation 1655.

(a) INSTALLATION GENERALLY. Charges for labor or services used in installing or applying the property sold are excluded from the measure of the tax. Such labor and services do not include the fabrication of property in place.

(b) REPAIRMEN.

(1) **WHEN RETAILERS.** If the retail value of the parts and materials furnished in connection with repair work is more than 10 percent of the total charge, or if the repairman makes a separate charge for such property, the repairman is the retailer and tax applies to the fair retail selling price of the property.^{1/}

If the retail value of the property is more than 10 percent of the total charge, the repairman must segregate on the invoices to his customers and in his records the fair retail selling price of the parts and materials from the charges for labor of repair, installation, or other services performed.^{2/} "Total charge" means the aggregate of the retail value of the parts and materials furnished or consumed in making the repairs, charges for installation, and charges for labor of repair or other services performed in making the repairs, including charges for in-plant or on-location handling, disassembly and reassembly. It does not include pick-up or delivery charges.

If the retailer does not make a segregation, the retail selling price of the parts and materials will be determined by the Board based on information available to it.

(2) **WHEN CONSUMERS.** If the retail value of the parts and materials furnished in connection with the repair work is 10 percent or less of the total charge, as defined in (b)(1) above, and if no separate charge is made for such property, the repairman is the consumer of the property,^{3/} and tax applies to the sale of the property to him.

(3) LUMP-SUM MAINTENANCE CONTRACTS.

(A) In General—Definitions. "Mandatory maintenance contract." A maintenance contract is mandatory within the meaning of this regulation when the buyer, as a condition of the sale, is required to purchase the maintenance contract from the seller. "Optional maintenance contract." A maintenance contract is optional within the meaning of this regulation when the buyer is not required to purchase the maintenance contract from the seller, i.e., he is free to contract with anyone he chooses.

(B) Mandatory Maintenance Contracts. If the repair work is performed under a mandatory lump-sum maintenance contract providing for the furnishing of parts, materials, and labor necessary to maintain the property, the repairer is regarded as the retailer of the material furnished. Accordingly, if the property upon which the maintenance will be performed is sold at retail, the measure of tax includes any amount charged for the lump-sum maintenance contract, whether or not separately stated. The sale of the parts and materials to the repairer furnishing them under such a contract is a sale for resale and is not taxable.

^{1/} Parts furnished for repairing such property as motor vehicles, airplanes, bicycles, machinery, refrigerators, farm implements, musical instruments, radios, television sets, boats and furniture.

^{2/} Section 9884.8 of the Business and Professions Code provides in part, with respect to automotive repair dealers, that "... Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each . . ."

^{3/} Parts furnished for repairing such property as tires (retreading and recapping, see Regulation 1548), tubes, clothing, fishing rods, watches, and jewelry (see Regulation 1553).

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(C) Optional Maintenance Contracts. If the repair work is performed under an optional lump-sum maintenance contract providing for the furnishing of parts, materials, and labor necessary to maintain the property, the repairer is regarded as the consumer of the parts and materials furnished.

(4) EXCHANGE OF USED FOR RECONDITIONED SIMILAR PROPERTY. If the method of repairing or reconditioning certain tangible personal property involves commingling property delivered to a repairman or reconditioner with similar property so that the customer receives repaired or reconditioned property which may not be the identical property delivered to the repairman or reconditioner but which is exactly the same kind of property or derived from exactly the same kind of property as that so delivered, tax applies to the amount charged by the repairman or reconditioner for the repaired or reconditioned property.

(5) REPAIR JOBS COVERED BY INSURANCE. An amount represented as the sales price of parts in an accepted bid is the taxable measure required to be reported by the repairman unless there is a subsequent modification of the bid agreement and the customer or the insurer is informed of the change, provided, however, that the sales price of the parts is not less than the cost of the parts actually used. The bid agreement may be modified by an invoice or a priced repair order given to the customer or the insurer showing the sales price of the property actually furnished by the repairman. If a bid is so modified and the customer or insurer is notified of the change, the amount represented as the sales price of the parts on the modified bid is the amount upon which tax must be reported.

When the accepted bid is in writing, the subsequent modification to the bid agreement must also be in writing. The customer or the insurer should be notified of such modification prior to completion of the sale (e.g., delivery of the repaired automobile).

History: Effective August 1, 1933.

Adopted as of January 1, 1945, as a restatement of previous rulings.

Amended and renumbered November 3, 1969, effective December 5, 1969.

Amended November 5, 1970, effective December 10, 1970.

Amended September 18, 1973, effective October 27, 1973.

Amended May 21, 1975, effective June 29, 1975.

Amended October 22, 1975, effective November 29, 1975.

Amended December 7, 1978, effective February 18, 1979 Amends subsection (b)(1) to delete language on excess tax reimbursement.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.